FRED WILLIAMSON & ASSOCIATES, INC
Telecommunications Management Consultants

May 16, 1996

Office of the Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D. C. 20554

Dear Secretary:

Enclosed are the original, and sixteen (16) copies, of the Comments of Fred Williamson & Associates, Inc. in CC Docket No. 96-98, Notice of Proposed Rulemaking, adopted and released April 19, 1996. Copies have also been sent to Ms. Janice Myles, as well as the Commission's copy contractor, International Transcription Services, Inc.

Please return the additional copy "file stamped," in the enclosed self addressed stamped envelope.

Sincerely,

FRED WILLIAMSON & ASSOCIATES, INC.

Marc A. Stone
Manager - Regulatory/Legislative Affairs

MAS/bls

Enclosure

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Certificate Of Mailing

I,Marc A.Stone, do certify that a copy of these Comments were sent,postage prepaid, to the abovelisted Federal-State Joint Board.

Marc A.Stone
May 16,1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.
in Response to
Notice of Proposed Rulemaking

May 16, 1996

Fred Williamson & Associates, Inc.
2921 E. 91st Street, Suite 200
Tulsa, Oklahoma 74137-3300

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.

Fred Williamson & Associates, Inc. (FW&A) respectfully submits these Comments in response to the Federal Communications Commission (FCC) Notice of Proposed Rulemaking, CC Docket No. 96-98, adopted and released April 19, 1996 regarding further implementation of the 1996 Telecommunications Act[1]. This Notice of Proposed Rulemaking is one of a number of interrelated proceedings designed to advance competition, to reduce regulation in telecommunications markets and at the same time to advance and preserve universal service to all Americans[2].

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[1] Telecommunications Act of 1996. Pub. L. No. 104,110 Stat. 56 (hereinafter 1996 Act)

[2] Notice of Proposed Rulemaking (NPRM), Para. 3.

I. Background

FW&A is a telecommunications management consulting firm located in Tulsa, Oklahoma, which represents the interests of a variety of small, investor-owned, rural-serving, independent telecommunications companies located primarily in the Midwest region of the United States. These companies, and FW&A, have been active commentors in previous proceedings before this Commission relating to the 1996 Act[3], and all these client local exchange companies qualify under the two percent rural carrier exemption contained in the 1996 Act[4]. However, such exemption notwithstanding, FW&A and these companies continue to be concerned regarding the various proposals that the FCC has been supporting, which appear to be "competitor, rather than competition driven." FW&A is concerned that FCC implementation of the 1996 Act should not force unnecessary, burdensome or uneconomic requirements upon their clients, and other small rural local exchange carriers. Such imposition would impinge upon their continued ability to provide the quality, and quantity, of Universal Service currently being provided to the rural, insular high-cost markets that they serve.

It is not our intention in these Comments to individually, or in any specific detail, reply to each and every issue, presumption, proposal or item for comment that are contained in this subject Docket. Rather, our intent is to focus upon those issues

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[3] CC Docket 96-45.

[4] Act, Section 251, Interconnection, (f) and (h).

that we believe are most important to the continued ability of these small local exchange companies' economic viability, and their ability to continue being the carrier of last resort in their existing certificated locations.

As has been pointed out previously, by both this commentor and other parties in prior Dockets[5], an ongoing concern is that the existing social contract between state and federal regulators (and these small companies) under which the companies have enhanced, improved and built a telephone network second-to-none in the world (and in most cases of quality, features, and service abilities equal to, or exceeding, the capabilities of the larger, urban-serving, system based companies) should not be negatively impacted in the FCC's apparent rush towards support of "competitors" in its efforts in implementing the 1996 Act. We therefore, urge great caution as the FCC continues to embark upon the new regulatory framework envisioned by the Congressional intent of the 1996 Act. We, and our clients do support the FCC's efforts as relating to experimentation for implementation of competition in the large local exchange company areas, and are not opposed to developing specific recommendations in regional Bell operating companies' territories as part of the RBOC's "headlong rush to enter interLATA markets."

We do however, urge the Commission to continue to review their actions and proposals as they may affect the smaller local exchange company, and their

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[5] CC Docket No. 80-286 and CC Docket No. 96-45.

customers, in light of the separate and potentially devastating effects that such actions may inadvertently cause upon the smaller local exchange carrier. FW&A, and our clients seek to help develop methods to allow the RBOCs comply with specific provisions of the 1996 Act, and to assist in their ability to meet their checklists for provision of interLATA services; but will not do so to the detriment of customers, or to any actions that might tend to negatively impact or weaken long term economic survival capabilities of these smaller companies.

II. Section 251 (c) Obligations

As discussed in this Docket[6], FW&A believes that sufficient definition(s) currently exists, and no new standards or procedures are required, by which carriers or other interested parties need to demonstrate that a particular LEC should be treated as an incumbent LEC pursuant to Section 251(h)(2). Further, FW&A believes that state commissions must be permitted to designate both incumbent LECs and their obligations, as well as have the ability to designate new LECs.

Relating to Section 251(c)(1), we are opposed to any efforts by which the FCC would establish national guidelines regarding "good faith negotiations" under this section; and toward what the content of such rules should be. Further, we believe that it is not necessary for the FCC to provide any specific legal definition or precedent regarding the duty to "negotiate in good faith," as it is specified in the 1996

[6] NPRM, Para. 42-48.

Act[7].

Finally, we believe that there is nothing contained in the 1996 Act that requires parties that have existing agreements to now submit (or resubmit) those agreements to state commissions for approval; nor do we believe that one party to an existing agreement may compel renegotiation (and/or arbitration) in accordance with procedures set forth in Section 252 of the 1996 Act.

III. Interconnection, Co-Location, and Unbundled Elements[8]

FW&A, and its client companies, are most concerned with actions the FCC might take regarding implementation of these provisions of the 1996 Act. We believe, that as specified in the 1996 Act[9], not only must there be consideration regarding technical capability and adverse economic impact on users, but more importantly the economic burdensome nature of these issues are overriding concerns that must be considered when applying such items to the smaller LECs. These smaller LECs, which primarily provide only local exchange telecommunications to their customers, are concerned regarding any imposition of minimum federal standards for interconnection, or particular technical interconnection points, which may be feasible for a larger carrier or a larger serving central office, but not very

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[7] 1996 Act, Section 251(c)(I).

[8] NPRM, Para. 49-157.

[9] 1996 Act, Section 251(f)(2)(A).

applicable to them. They further are concerned regarding the issue of the economic feasibility of their expending large sums to provide for a capability for interconnection, or to determine unbundling rates and/or unbundled elements, when in fact such demand for these items in their territory may be so diminimus that no return for such efforts or cost expenditure will ever accrue to them. They're certainly not opposed to the provision of fair, logical competition, and where technically and economically feasible are willing, and able, to provide for co-location and/or unbundled elements to a competitor, but do not believe that these should be accomplished at the detriment of existing customers, or to the negative financial effect upon their enterprise.

As FW&A continually espoused in this, and in previous proceedings, we believe that fair and logical competition should not only be allowed, it must be further encouraged; but uneconomic or technically non-logical competition - merely for the sake of competition itself, should not be imposed upon the smaller exchange carrier.

FW&A contends that many issues raised in this NPRM relating to unbundled network elements, points of interconnection, physical and virtual co-location are really issues that currently are only applicable to the larger local exchange carrier, and as such should not be imposed upon the smaller carrier(s), especially those currently eligible for the statutory exemption of the 1996 Act[10].

[10] 1996 Act, Section 251(f).

Pricing of wholesale services is also a major issue that has been raised in this NPRM, and is of great concern to the smaller LECs. We assert that it is impossible to comply with the provision of wholesale services at a discounted rate from an existing retail rate which itself is currently incrementally noncompensatory based upon existing imbedded implicit and explicit subsidy flows. Unless, and until, such retail services are first priced at their own full incremental cost level, absent subsidy, we believe it is impossible for the smaller carrier to merely reduce a currently subsidized service rate to provide for resale at artificially computed rates merely to create an opportunity for a new carrier to "resell" its service. This concept would be bad economic, and political policy and could affect the ability of the nation, as a whole, to continue moving forward and seeking to increase subscribership to the public switched telephone network.

We also submit that where states are currently experimenting with interconnection agreements, and rates, such as California, New York and Illinois, Washington and others, that they be allowed to continue such experiments. These state rules, and negotiating frameworks are currently in place, and over time will be the best indicator of the correctness of their actions, or the need for corrections to be taken. It is premature for the FCC to suggest that it arbitrarily overrule, change, modify, or eliminate existing state arrangements under the guise of compliance with the 1996 Act. We believe that specific by-state, or company area competition should be allowed to grow, flourish and individually assert itself as currently is developing.

There is no need for artificial support to competitors, or for the FCC to consider overturning existing state regulatory actions taken in light of specific circumstances, conditions, and needs of both their incumbent LEC(s) and their potential competitors. We believe the marketplace must be allowed to function with a certain degree of "laissez-faire" (by the FCC), rather than through mandatory dictums of arbitrary standards, or FCC modifications to current state-specific situations.

IV. Relationship to Other Pricing Standards[11]

A great concern raised in this NPRM are the apparent attempts in which we believe the FCC has proposed to do ratemaking in this particular rulemaking. This "ratemaking" would occur through imposition of the NPRM assumptions, or suggested changes, to the federal SLC or other such cost support ideas[12] which do not have any record support in this, or other Dockets. Further, the discussions in this NPRM regarding the Federal Universal Subsidies are already specifically subject to a separate Docket, (CC Docket No. 96-45), and do not appear to be appropriate for any inclusion in this NPRM[13].

V. Obligations Imposed on Local Exchange Carriers by Section 251 (d)

FW&A asserts that CMRS providers should not be classified as LECs under

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[11] NPRM, Para. 184-188.

[12] NPRM, Para. 185.

[13] NPRM, Para. 188.

the criteria of wireless loop competition in the LEC service area by the CMRS. Such provision does not make "LEC determination" valid, or viable[14]. Further, we believe there is nothing contained in the 1996 Act that would encourage, or suggest to, the FCC the need for classification of any class of CMRS providers as LECs, whether competing with LECs or not. Further, we do not believe that there is any particular distinguishing characteristics between CMRS providers offering cellular service, from those that offer only paging service.

We are also concerned regarding the Commission's continuing apparent proclivity to view existing state tariffs or interconnection agreements that exist for CMRS providers as something subject to, and necessary for, implementation provisions of the 1996 Act. While we are fully cognizant that the "overall regulation of CMRS" providers has been a federal preemptive issue, FW&A notes that the state tariffs or contracts which specify economic terms and technical interconnection between CMRS, paging, cellular and other radio common carriers with LEC points of interconnection and pricing have historically been correctly matters of state regulatory concern. We find nothing in the 1996 Act that would overturn this precedence, or that exists regarding the state regulatory jurisdiction over these items; and believe that attempts by the FCC to redo, change, modify, eliminate or replace such existing situations are not specifically required or authorized by the 1996 Act. We further suggest this area is another example of the FCC attempting to utilize provisions of the

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[14] NPRM, Para. 195.

1996 Act to preempt state regulators.

VI. Conclusion

FW&A urges that the smaller LECs be allowed to essentially operate as they have been; and as they are currently able to, thereby continuing to provide high quality levels of both public switched telephone network connection(s) and Universal Service abilities to their subscribers, located primarily in the rural, high cost, insular areas of this country. We are concerned regarding the FCC's actions in implementation of the 1996 Telecommunications Act as relates to what we perceive as both massive attempts of FCC attempted preemption of existing state regulatory policies and procedures, as well as a "rush-to-judgement" contained in both this subject NPRM, and other previously released Dockets relating to the 1996 Act. We find scant evidence in any of these Dockets labeled as Notice of Proposed Rulemaking that in fact have specific rules proposed. We suggest that Dockets to date are more correctly Notice of Inquiry Dockets, which raise and suggest certain policy issues, without the provision of firm implementation rules, goals, guidelines or capabilities, and therefore will require additional Comment/Reply abilities prior to final FCC Orders.

While we are cognizant of the short timeframes imposed upon FCC for implementation of the 1996 Act by the Congress, we are concerned to a greater level that there is too much evidence in these Dockets of previous dockets (before passage

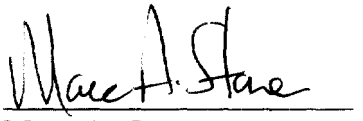
of the 1996 Act), and their suggestions, speculations, innuendos and the like surviving, and being utilized, to develop FCC's 1996 Act implementation actions most of which appear to favor "competitors, rather than competition."

We are also united with the efforts of the various national industry trade associations which have expressed concerns that irreparable harm may, can, and appears to be being proposed that will negatively impact the smaller local exchange carriers. These small carriers are not part of the RBOC headlong rush into interLATA competition, yet are apparently about to be treated the same way as the large system-based local exchange carriers (RBOCs and the like). These larger carriers have many other sources of revenue, and alternate revenue streams, to cushion effects of proposed FCC actions when compared to the smaller companies. We therefore, submit that it becomes a much greater "tightrope act" to balance the needs of Universal Service, with the fostering of "competition"; and still recognize the continued economic viability of these entrepreneurial enterprises who have devoted several generations of effort, financial resources and personal commitment to providing service in areas of the country which would otherwise be devoid of telephone service. Certainly these rural, insular, high-cost areas would not be receiving the quality, quantities or abilities of the services that are in place without the efforts of these entrepreneurs. It then becomes increasingly critical for the Commission to view its actions and effects separately, as they affect the smaller local exchange carrier, than they do to the system-based companies. The larger RBOC,

and other system companies are intent upon entering the competitory arena, and competing with each other and incumbent interexchange carriers, and also have a plethora of sources of other than just local service revenue that will allow their ongoing viability, and their ability to provide basic local exchange telephone service, even should some of these FCC-proposed "grand social experiments" go awry. However, the smaller company, faced only with a revenue source largely dependent upon local exchange telephone service (at existing revenue flows including both implicit and explicit subsidy level) are much more subject to catastrophic economic losses based upon policy decisions undertaken by this Commission.

Finally, we believe that it must continue to reside within the state regulatory purview for the ability to set local exchange telephone rates, and those other rates which are included with basic service items, i.e. resale, wholesale, unbundling, interconnection and the like, without continued attempts, or threats of federal preemption, as suggested and evidenced in this Docket.

Respectfully submitted



May 16, 1996

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